

आयकर अपीलीय अधिकरण, कटक न्यायपीठ, कटक
IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND**

SHRI MANISH AGARWAL, ACCOUNTANT MEMBER

आयकर अपील सं/ITA No.379/CTK/2024

(निर्धारण वर्ष / Assessment Year : 2019-2020)

Subhadra Mahtab Seva Sadan At: Kolathia, PO: Aigania, Bhubaneswar-751019	Vs	ITO (Exemption), Bhubaneswar
PAN No. : AAETS 9311 A		

(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
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निर्धारिती की ओर से / Assessee by	:	Shri A.K.Padhy, CA
राजस्व की ओर से / Revenue by	:	Shri Sanjay Kumar CIT-DR
सुनवाई की तारीख / Date of Hearing	:	24/10/2024
घोषणा की तारीख/ Date of Pronouncement	:	24/10/2024

आदेश / ORDER

Per Bench :

This is an appeal filed by the assessee against the order of the Id. CIT(A), National Faceless Appeal Centre (NFAC), Delhi, dated 23.07.2024, passed in appeal No.CIT(A), NFAC/2018-19/10036113 vide DIN & Order ITBA/NFAC/S/250/2024-25/1066952057(1) for the assessment year 2017-2018, on the following grounds of appeal :-

- 1. That the calculation of total income of Rs 26195428/- in the Computation sheet taking wrongly revenue expenditure of the Schedule ER as 0 instead of Rs.3,14,09,252/- during the year as taxable income is arbitrary, purely surmise and unjustified in law to the particular facts and circumstance of the case.*
- 2. That the revenue expenditure of Rs.3,14,09,252/- in the Computation sheet has been taken at 0 but the A.O in the order U/s 143(3) total Income determined as Nil, but the learned CIT(Appeal) has dismissed the Appeal and uphold the revenue Expenditure of Rs.3,14,09,252/- as disallowance, is unjustified and uncalled for to the particular facts and circumstance of the case.*
- 3. That the Appellant craves leave to add or amend any grounds of appeal and put-forth evidences and urge other ground during the course of hearing.*

4. PRAYER:-


That the Appellant prays that the revenue expenditures of Rs 31409252/- during the year may kindly be taken while calculating Total Income in the Computation sheet and levy of tax and interest in the demand notice may kindly be waived in the interest of justice for which the Appellant shall as in duty bound ever pray.

2. Since both the grounds of appeal are related to one issue of charging tax on the total income of Rs.3,12,71,078/- in computation of income though no addition was made in the assessment, thus, the same are canvassed together for the sake of convenience.

3. Brief facts of the case are that the assessee is a trust registered u/s.12A of the Act and also had approval u/s.80G of the Act. The assessee had also been approved u/s.10(23C)(iv)(v) of the Act. The return of income was filed on 25.10.2019 declaring Nil income. The AO after examining the claim of the assessee was of the view that the assessee was engaged in the charitable activities as provided in its memorandum and had not claimed any deduction u/s.35(1)(ii)(iii) of the Act. However, while computing the tax as per the computation sheet attached to the assessment order,, the income of the assessee was taken at Rs.3,12,71,078/- and a demand notice of Rs.1,13,76,574/- was issued along with the assessment order. The assessee preferred appeal before the Id. CIT(A) against such order and also filed an application u/s.154 of the Act for rectification before the AO. Ld. CIT(A) while deciding the appeal of the assessee failed to appreciate the fact that the assessee has not made any claim u/s.35(1)(ii)(iii) of the Act and confirmed the income computed as per the Income Tax Computation sheet at Rs.3,14,09,252/-. In the meantime, the AO has rectified the assessment order in terms of

rectification order dated 03.05.2024 and computed the income of the assessee at Nil. This fact was not brought to the notice of the Id. CIT(A). Thus, the entire confusion was created.

4. Before us, Id. AR submitted a copy of the rectification order which reads as under :-

 GOVERNMENT OF INDIA MINISTRY OF FINANCE INCOME TAX DEPARTMENT OFFICE OF THE INCOME TAX OFFICER EXEMPTION WARD, BBN			
To, SUBHADRA MAHATAB SEVA SADAN Kolothia Post: Aiginia, Aiginia Bhubaneswar 751019, Odisha India			
PAN: AAETS9311A	AY: 2019-20	DIN & Order No: ITBA/REC/S/154_1/2024- 25/1064612779(1)	Dated: 03/05/2024
Name of the assessee	SUBHADRA MAHATAB SEVA SADAN		
Address of the assessee	Kolothia Post: Aiginia, Aiginia, Bhubaneswar 751019, Odisha, India		
Status	TRUST		
Range/Circle/Ward	EXEMPTION WARD, BBN		
Resident/Resident but not Ordinary resident/ Non-resident	Resident		
Date of Hearing	As per Order Sheet		
Section/Sub-section under which rectification is made	154 r.w.s 143(3)		
Date of Order	03/05/2024		

RECTIFICATION ORDER

The assessee has filed its return of income for the A.Y 2019-20 on 25-10-2019 declaring total income at Rs. Nil. The said return of income was processed u/s 143(1) determining total income at Rs.Nil. Subsequently, the case was selected for scrutiny and accordingly the order u/s 143(3) read with section 143(3A) & 143(3B) of the Income-tax Act was passed vide DIN No.ITBA/AST/S/143(3)/2020-21/1031072930(1) dtd. 25-02-2021 accepting the returned income at Rs.Nil as no adverse inference is drawn on the issue involved in the scrutiny assessment.

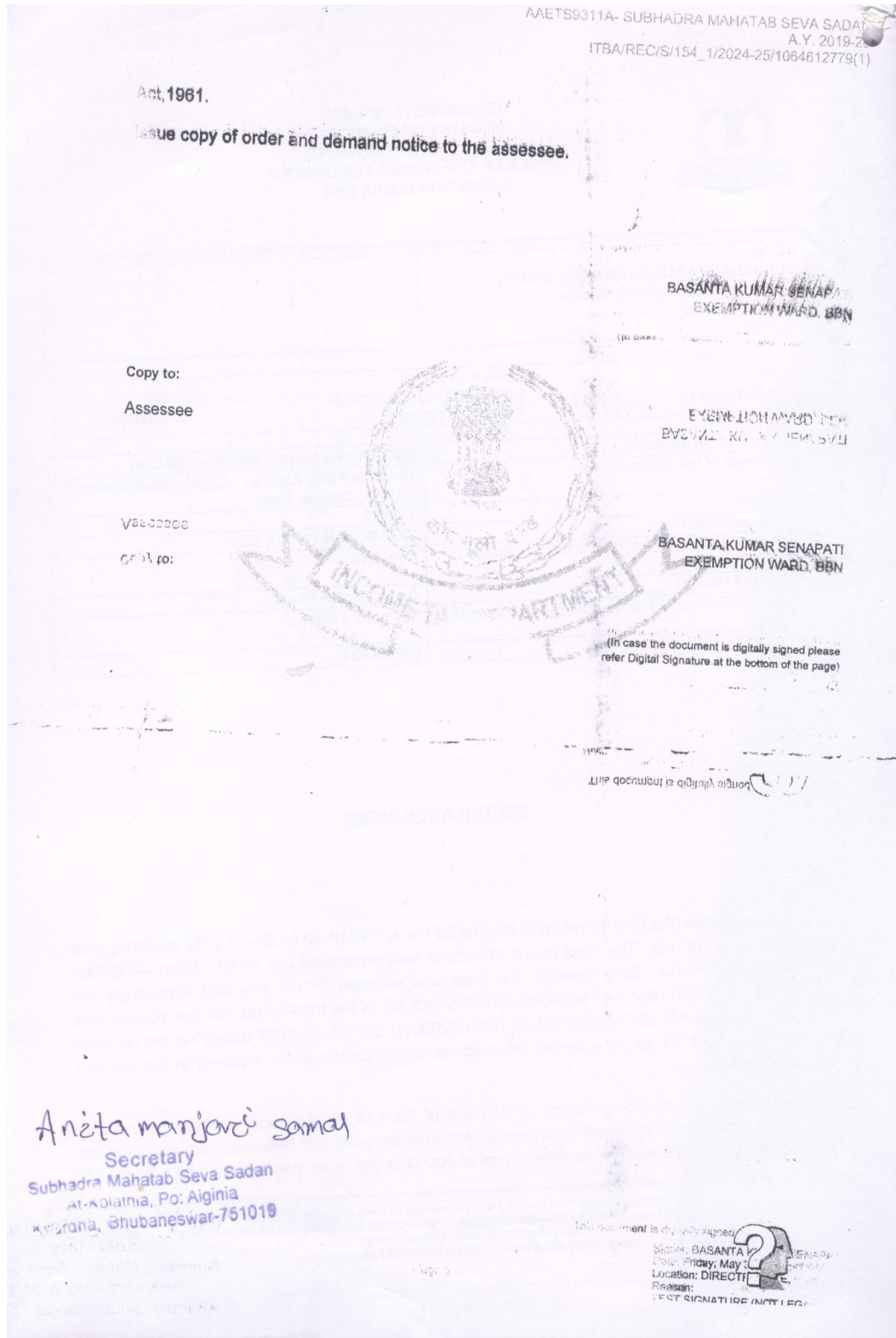
But due to wrong computation, a demand of Rs.1,13,76,574/- was created erroneously which is a mistake apparent from record. Accordingly, order has been rectified u/s 154 of the Act accepting the income as determined at Rs.Nil in the order passed u/s 143(3) of the I.T

Note: If digitally signed, the date of digital signature may be taken as date of document.

ROOM NO:316/317, Pratyaksha Kar Bhawan, PRATYAKSHA KAR BHAWAN, THIRD FLOOR, REGIONAL TELECOM TRG CENTRE, VSS NAGAR
ROAD, BHUBANESWAR, Odisha, 751007
Email: BHUBANESWAR.ITO.EXMP@INCOMETAX.GOV.IN

Anita Manjara Samal
Secretary
Subhadra Mahatab Seva Sadan
At-Kolothia, Po: Aiginia
Khandana, Bhubaneswar-751019

Note:- The website address of the e-filing portal has been changed from www.incometaxindiaefiling.gov.in to www.incometax.gov.in
* DIN - Document Identification No.



5. From the perusal of the same, it is found that the error committed by the AO in the computation sheet was rectified in terms of the order date 03.05.2024, however, as this order was not communicated to the Id.

CIT(A), the same remained unconsidered by the Id. CIT(A) while disposing the appeal of the assessee. It is further noticed that the Id. CIT(A) has wrongly observed that the assessee has made claim u/s.35(1)(ii)(iii) of the Act though after examination of the records it was specifically observed by the AO in para 5 of the order that no such claim was made in the return, therefore, the order of the Id. CIT(A) is contrary to the facts of the case. In view of these facts and considering that the AO himself has already rectified the assessment order, the order of the Id. CIT(A) is set aside and the income finally computed by the Id. AO as per the order passed u/s.154 of the Act, dated 03.05.2024 is hereby upheld.

6. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on 24/10/2024.

Sd/-

(GEORGE MATHAN)

न्यायिक सदस्य / JUDICIAL MEMBER

कटक Cuttack; दिनांक Dated 24/10/2024

Prakash Kumar Mishra, Sr.P.S.

आदेश की प्रतिलिपि प्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant-
Subhadra Mahtab Seva Sadan
At: Kolathia, PO: Aigania,
Bhubaneswar-751019
2. प्रत्यर्थी / The Respondent-
ITO (Exemption), Bhubaneswar
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR, ITAT,
Cuttack
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

Sd/-

(MANISH AGARWAL)

लेखा सदस्य/ ACCOUNTANT MEMBER

आदेशानुसार/ BY ORDER,

(Assistant Registrar)

आयकर प्रतीलीय अधिकरण, कटक/ITAT, Cuttack